

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	CRIMINAL ACTION NO.
	)	3:06cr297-MHT
LOYD FRANK LAWING	)	

ORDER

This case is now before the court on defendant Loyd Frank Lawing's motion to continue trial. In light of the fact that the government has no objections to the continuance motion and for the reasons set forth below, the court concludes that the continuance motion should be granted.

While the granting of a continuance is left to the sound discretion of the trial judge, United States v. Stitzer, 785 F.2d 1506, 1516 (11th Cir.), cert. denied, 479 U.S. 823 (1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a

defendant charged in an ... indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the ... indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

18 U.S.C. § 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." 18 U.S.C. § 3161(h)(8)(A). In granting such a continuance, the court may consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant ... the reasonable time necessary for effective preparation." 18 U.S.C. § 3161(h)(8)(B)(iv).

The court concludes that, in this case, a continuance is necessary because Lawing's counsel needs time to review the extensive discovery materials in the case, but counsel will be on military-reserve duty and at a Federal

Defenders seminar for a substantial period of the time between now and the current trial date. Thus, the ends of justice served by granting a continuance outweigh the interest of the public and Lawing in a speedy trial.

Accordingly, it is ORDERED as follows:

(1) Defendant Loyd Frank Lawing's motion to continue (Doc. No. 15) is granted.

(2) Defendant Lawing's trial and jury selection are continued to the criminal term of court commencing September 17, 2007.

DONE, this the 8th day of May, 2007.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE